

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 01-CV-12145-RGS

MAC HUDSON, et al

v.

MICHAEL MALONEY, et al.

MEMORANDUM AND ORDER
ON PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

March 30, 2004

STEARNS, D.J.

Two Muslim inmates confined at the Massachusetts Correctional Institution at Cedar Junction (MCI Cedar Junction), Mac Hudson and Derrick Tyler, allege that corrections officials have violated their First Amendment right to the free exercise of religion by refusing to allow them to practice their Muslim faith in accordance with their understanding of Islamic dietary requirements.¹ Plaintiffs seek a preliminary injunction ordering that they be provided "Halal" meals,² and that only Muslim inmates be permitted to handle and

¹A third plaintiff, Antwan Crawford, has been released from custody and is no longer a party to this action.

²The Halal dietary restrictions at issue principally involve the preparation of meat. An Islamic website, eat-halal.com, describes the proper method as follows:

Animals such as cows, sheep, goats, deer, moose, chickens, ducks, game birds, etc., are also Halal, but they must be *Zabihah* (slaughtered according to Islamic Rites) in order to be suitable for consumption. The procedure is as follows: the animal must be slaughtered by a Muslim (or a Jew or Christian). The animal should be put down on the ground (or held if it is small) and its throat should be slit with a very sharp knife to make sure that the 3 main blood vessels are cut. While cutting the throat of the animal (without severing it) the person must pronounce the name of Allah or recite

prepare their food during the Moslem holy month of Ramadan.³ Plaintiffs state that they are seeking to follow the diet prescribed by Elijah Muhammad in How to Eat to Live Under Islam, which prohibits the consumption of meat “substitutes,” corn, and Jell-O, pudding and other foods made with pork byproducts.⁴ Plaintiffs argue that defendants’ refusal to provide Halal meals violates equal protection because similarly situated Jewish and Seventh Day Adventist inmates are offered meals prepared according to the dietary laws of their religions.

Defendants make the unassailable point that correctional facilities are permitted to balance valid penological interests, including the necessity of operating a prison within budgetary constraints, against an inmate’s desire for an individualized religious diet. See Denson v. Marshall, 59 F. Supp. 2d 156, 158-159 (D. Mass. 1999), aff’d, 230 F.3d 1347 (1st Cir. 2000); Muhammed v. Warithu-Deen Umar, 98 F. Supp. 2d 337, 344 (W.D.N.Y. 2000). Defendants maintain that it is not financially feasible to provide meals that conform to the unorthodox Muslim teachings that plaintiffs have embraced and that Kosher and

a blessing which contains the name of Allah, such as “Bismillah Allah-u-Akbar.”

³According to the affidavit of Ibrahim Rahim, the Director of the Diversity Office for the Department of Correction, and a University of Medina graduate in Islamic law, the Holy Qu’ran permits Muslims to consume food prepared by non-Muslims. Defendants also point out that any special selection of inmates for food service positions based on their religious affiliation would violate the Department of Correction’s policy of assigning jobs on a nondiscriminatory basis and expose it to potential litigation, as well as risk resentment on the part of other inmates at the special treatment accorded to plaintiffs.

⁴Director Rahim attests that there is no Islamic prohibition against the consumption of corn, and that Jell-O, pudding, and similar foods served by the Department of Correction are pork-free.

vegetarian meals are provided to Jewish and Seventh Day Adventist inmates because of marketplace considerations and not out of any desire to elevate one religion over another. Defendants also contend that plaintiffs are not prevented from practicing their religion because they are offered the alternative of a vegetarian diet, while it is undisputed that all meals served in the prison system are pork-free.

The award of a preliminary injunction “requires consideration of (1) the movant’s likelihood of success on the merits, (2) the potential for irreparable harm, (3) a balancing of the relevant equities, and (4) the effect on the public interest.” Campbell Soup Company v. Giles, 47 F.3d 467, 470 (1st Cir. 1995). “Likelihood of success if the main bearing wall of the four-factor framework.” Ross-Simons of Warwick, Inc. v. Baccarat, Inc., 102 F.3d 12, 15 (1st Cir. 1996). The issues raised by plaintiffs are not novel. As defendants point out, a raft of precedent holds that providing Muslim inmates with a pork-free diet satisfies the First Amendment. See O’Lone v. Shabazz, 482 U.S. 342, 352 (1987). A persuasive example is Abdul-Malik v. Goord, 1997 WL 83402 (S.D.N.Y. Feb. 27, 1997), where Judge Cote, after a trial of the issue, held that the failure of corrections officials to provide Halal meat to Muslim inmates, given the availability of alternative diets that did not offend Islamic teachings, did not violate the First Amendment or the Equal Protection Clause.⁵ The general thrust of Abdul-Malik and like cases is that “[a]ll that is required for a prison diet not to burden an inmate’s free exercise of religion is ‘the provision of a diet sufficient to sustain the prisoner in good health without violating [his

⁵As attested by Director Rahim, an absolute prohibition against the consumption of non-Halal meat is not a central tenet of Islam. Nor does a Halal diet require the eating of any meat whatsoever. See Abdul-Malik, supra at *2.

religion's] dietary laws.'" Id. at *6, quoting Kahane v. Carlson, 527 F.2d 492, 496 (2d Cir. 1975). Because plaintiffs have not established that their personal interest in a dietary regime tailored to their specific religious beliefs outweighs the interest of the Department of Correction in the efficient and secure management of its penal institutions, the court will deny the request for a preliminary injunction.

ORDER

For the foregoing reasons, plaintiffs' motion for a preliminary injunction is DENIED. Dispositive motions shall be filed within forty-five (45) days of the date of this Order, with oppositions due twenty-one (21) days thereafter.⁶

SO ORDERED.

/s/ Richard G. Stearns

UNITED STATES DISTRICT JUDGE

⁶On the existing record, the only potential dispute of fact that the court can identify involves the defendants' claim that the provision of a Halal diet would impose an undue financial and administrative burden on the Department of Correction. But see Abdullah v. Fard, 974 F. Supp. 1112, 1118-1119 (N.D. Ohio 1997).